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objects that obstruct a patient's airway to prevent asphyxiation to the patient.

(b) *Classification.* Class III.

(c) *Date PMA or notice of completion of PDP is required.* A PMA or a notice of completion of a PDP for a device is required to be filed with the Food and Drug Administration on or before July 13, 1999 for any suction antichoke device that was in commercial distribution before May 28, 1976, or that has, on or before July 13, 1999, been found to be substantially equivalent to a suction antichoke device that was in commercial distribution before May 28, 1976. Any other suction antichoke device shall have an approved PMA or declared completed PDP in effect before being placed in commercial distribution.

[51 FR 40389, Nov. 6, 1986, as amended at 64 FR 18329, Apr. 14, 1999; 65 FR 2316, Jan. 14, 2000]

§ 874.5370 Tongs antichoke device.

(a) *Identification.* A tongs antichoke device is a device that is intended to be used in an emergency situation to grasp and remove foreign objects that obstruct a patient's airway to prevent asphyxiation of the patient. This generic type of device includes a plastic instrument with serrated ends that is inserted into the airway in a blind manner to grasp and extract foreign objects, and a stainless steel forceps with spoon ends that is inserted under tactile guidance to grasp and extract foreign objects from the airway.

(b) *Classification.* Class III.

(c) *Date PMA or notice of completion of PDP is required.* A PMA or a notice of completion of a PDP for a device is required to be filed with the Food and Drug Administration on or before July 13, 1999 for any tongs antichoke device that was in commercial distribution before May 28, 1976, or that has, on or before July 13, 1999, been found to be substantially equivalent to a tongs antichoke device that was in commercial distribution before May 28, 1976. Any other tongs antichoke device shall have an approved PMA or declared completed PDP in effect before being placed in commercial distribution.

[51 FR 40389, Nov. 6, 1986, as amended at 64 FR 18329, Apr. 14, 1999]

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§ 874.5550 Powered nasal irrigator.

(a) *Identification.* A powered nasal irrigator is an AC-powered device intended to wash the nasal cavity by means of a pressure-controlled pulsating stream of water. The device consists of a control unit and pump connected to a spray tube and nozzle.

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to § 874.9.

[55 FR 48440, Nov. 20, 1990, as amended at 65 FR 2316, Jan. 14, 2000]

§ 874.5800 External nasal splint.

(a) *Identification.* An external nasal splint is a rigid or partially rigid device intended for use externally for immobilization of parts of the nose.

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to the limitations in § 874.9.

[51 FR 40389, Nov. 9, 1986, as amended at 52 FR 32111, Aug. 25, 1987; 59 FR 63009, Dec. 7, 1994; 66 FR 38801, July 25, 2001]

§ 874.5840 Antistammering device.

(a) *Identification.* An antistammering device is a device that electronically generates a noise when activated or when it senses the user's speech and that is intended to prevent the user from hearing the sounds of his or her own voice. The device is used to minimize a user's involuntary hesitant or repetitive speech.

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to § 874.9.

[51 FR 40389, Nov. 6, 1986, as amended at 65 FR 2316, Jan. 14, 2000]

PART 876—GASTROENTEROLOGY- UROLOGY DEVICES

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876.5270 Implanted electrical urinary continence device.

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876.5320 Nonimplanted electrical continence device.
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876.5885 Tissue culture media for human ex vivo tissue and cell culture processing applications.
876.5895 Ostomy irrigator.
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876.5920 Protective garment for incontinence.
876.5955 Peritoneo-venous shunt.
876.5970 Hernia support.
876.5980 Gastrointestinal tube and accessories.
876.5990 Extracorporeal shock wave lithotripter.

AUTHORITY: 21 U.S.C. 351, 360, 360c, 360e, 360j, 360l, 371.

SOURCE: 48 FR 53023, Nov. 23, 1983, unless otherwise noted.

Subpart A—General Provisions

§ 876.1 Scope.

(a) This part sets forth the classification of gastroenterology-urology devices intended for human use that are in commercial distribution.

(b) The identification of a device in a regulation in this part is not a precise description of every device that is, or will be, subject to the regulation. A manufacturer who submits a pre-market notification submission for a device under part 807 may not show merely that the device is accurately described by the section title and identification provisions of a regulation in

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this part, but shall state why the device is substantially equivalent to other devices, as required by § 807.87.

(c) To avoid duplicative listings, a gastroenterology-urology device that has two or more types of uses (e.g., used both as a diagnostic device and as a therapeutic device) is listed only in one subpart.

(d) References in this part to regulatory sections of the Code of Federal Regulations are to chapter I of title 21, unless otherwise noted.

(e) Guidance documents referenced in this part are available on the Internet at <http://www.fda.gov/cdrh/guidance.html>.

[52 FR 17737, May 11, 1987; 52 FR 22577, June 12, 1987, as amended at 69 FR 77623, Dec. 28, 2004]

§ 876.3 Effective dates of requirement for premarket approval.

A device included in this part that is classified into class III (premarket approval) shall not be commercially distributed after the date shown in the regulation classifying the device unless the manufacturer has an approval under section 515 of the act (unless an exemption has been granted under section 520(g)(2) of the act). An approval under section 515 of the act consists of FDA's issuance of an order approving an application for premarket approval (PMA) for the device or declaring completed a product development protocol (PDP) for the device.

(a) Before FDA requires that a device commercially distributed before the enactment date of the amendments, or a device that has been found substantially equivalent to such a device, has an approval under section 515 of the act FDA must promulgate a regulation under section 515(b) of the act requiring such approval, except as provided in paragraph (b) of this section. Such a regulation under section 515(b) of the act shall not be effective during the grace period ending on the 90th day after its promulgation or on the last day of the 30th full calendar month after the regulation that classifies the device into class III is effective, whichever is later. See section 501(f)(2)(B) of the act. Accordingly, unless an effective date of the requirement for premarket approval is shown in the regu-

lation for a device classified into class III in this part, the device may be commercially distributed without FDA's issuance of an order approving a PMA or declaring completed a PDP for the device. If FDA promulgates a regulation under section 515(b) of the act requiring premarket approval for a device, section 501(f)(1)(A) of the act applies to the device.

(b) Any new, not substantially equivalent, device introduced into commercial distribution on or after May 28, 1976, including a device formerly marketed that has been substantially altered, is classified by statute (section 513(f) of the act) into class III without any grace period and FDA must have issued an order approving a PMA or declaring completed a PDP for the device before the device is commercially distributed unless it is reclassified. If FDA knows that a device being commercially distributed may be a "new" device as defined in this section because of any new intended use or other reasons, FDA may codify the statutory classification of the device into class III for such new use. Accordingly, the regulation for such a class III device states that as of the enactment date of the amendments, May 28, 1976, the device must have an approval under section 515 of the act before commercial distribution.

[52 FR 17737, May 11, 1987]

§ 876.9 Limitations of exemptions from section 510(k) of the Federal Food, Drug, and Cosmetic Act (the act).

The exemption from the requirement of premarket notification (section 510(k) of the act) for a generic type of class I or II device is only to the extent that the device has existing or reasonably foreseeable characteristics of commercially distributed devices within that generic type or, in the case of in vitro diagnostic devices, only to the extent that misdiagnosis as a result of using the device would not be associated with high morbidity or mortality. Accordingly, manufacturers of any commercially distributed class I or II device for which FDA has granted an exemption from the requirement of premarket notification must still submit a premarket notification to FDA